

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-30230
Issue No: 2000; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 13, 2009
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 13, 2009. Claimant personally appeared and testified along with her husband [REDACTED]. Diana DeSantiago, FIM with Ottawa County DHS, translated for the claimants from English to Spanish and vice versa.

ISSUES

1. Did the claimant have a right to a hearing to appeal a previous decision by an Administrative Law Judge?
2. Did the department correctly take action to terminate claimant's Food Assistance Program (FAP) benefits effective August 1, 2009?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant previously applied for Medicaid (MA) and State Disability Assistance (SDA), and was denied by the department. Claimant appealed the denial and an administrative hearing was held on February 24, 2009, resulting in Administrative Law Judge upholding department's denial.

2. Claimant was a FAP recipient when she reported that her husband was living with her again. On June 16, 2009, department mailed the claimant two Verification Checklists, DHS-3503 and DHS-3503-SP, telling her in English and in Spanish that she had to provide records of all income in her household, household expenses, DHS-1010, redetermination document, and "all income for your residence including but limited to the rental properties in Texas".

3. Claimant did not return requested verifications and department took action to terminate her FAP benefits effective August 1, 2009. Claimant requested a hearing on July 10, 2009 and continues to receive FAP benefits pending the outcome of this hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10,

et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Claimant's first issue is that she is contesting previous MA and SDA decision of an Administrative Law Judge. Hearing testimony reveals that the claimant had already appealed this decision and it was upheld by SOAHR Manager. Department's administrative rules states that hearing decisions are appealable to the circuit court within 30 days of receipt of the decision as to matters of law. Administrative Rule 400.921. Claimant cannot therefore appeal a decision of an Administrative Law Judge through another hearing in front of a different Administrative Law Judge, and this was explained to her.

Claimant's second issue is that of FAP eligibility. Claimant's husband testified that his income and assets are his and that they are not to be counted when determining claimant's FAP eligibility. Department's policy states:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation. (See "LIVING SITUATIONS" in this item.)

PEM, Item 212, p. 1.

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately. PEM, Item 212, p. 1.

Spouses who are legally married and live together **must** be in the same group. PEM, Item 212, p. 1.

Therefore, claimant and her spouse must be in the same FAP group, and her husband's income from his rental properties must be revealed to the department in order to determine FAP eligibility. Administrative Law Judge explained this policy to the claimant and her husband (through the translator), but claimant's husband continued to loudly dispute this policy, as he feels that his wife should be able to get food stamps without any consideration of his income. Claimant's husband then proceeded with a litany of complaints against the department and cited past issues of alleged unfairness that had nothing to do with matter at hand. The Administrative Law Judge requested that claimant's husband states if he is willing to release information about his income to the department, and the response was that he was not. Department's proposed termination of claimant's FAP benefits due to her failure to verify income information is therefore correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FAP benefits effective August 1, 2009. Furthermore, claimant does not have a right to a hearing to appeal previous decision of an Administrative Law Judge.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 17, 2009

Date Mailed: August 18, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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